IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

SUO MOTU CRIMINAL WRIT PETITION NO.1 OF 2005

High Court on its own motion ..Petitioner.
Versus
The State of Maharashtra
and Ors. ...Respondents.

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Mrs.U.V.Kejariwal, APP, for the State.

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CORAM : D.G.DESHPANDE AND
SMT.V.K.TAHILRAMANI, JJ.

DATED : APRIL 27, 2006.

ORAL ORDER (PER SMT.TAHILRAMANI,J.)

. Heard.

2. This is a Suo Motu Petition registered at the behest of Mr.Asim Sarode, who submitted a letter dated 9th March, 2005 to the Hon'ble The Chief Justice, regarding the prevailing conditions in the Central Jails throughout the State of Maharashtra. It is stated that the jails are seriously overcrowded, adequate number of toilets are not available in jail and proper medical

facilities should be made available to the prisoners. It is also prayed therein that prisoners who are extremely old, ill and infirm should be prematurely released from prisons and guidelines be issued to the State in that regard. A notice was issued to Mr.Asim Sarode, Advocate, however none appeared, hence we have carefully perused the Petition.

3. Pursuant to the said Petition, a detailed affidavit has been filed by Mr.Avinash M. Sable, Under Secretary to the Government of Maharashtra, Home Department. So also, data has been furnished relating to the prisoners who are over 65 years of age and who are infirm and/or disabled.

4. As far as the aspect of over crowding and the prisoners not having adequate toilets, is concerned, in the affidavit of Mr.Sable it is stated that the total number of prisoners in various prisons at the time of filing return was 25495, i.e. much more than the actual capacity of prisoners which capacity was 16216. The number

and names of prisons, actual capacity of prisoners and total number of prisoners is given as under :

Sr. No.	Name of Prison	Actual capacity	Total number of prisoners.
1.	Yerwada	2449	3624
2.	Mumbai Central Prison	804	2,888
3.	Thane	1105	2592
4.	Kolhapur	1725	1823
5.	Nasik	1977	2239
6.	Aurangabad	1050	659
7.	Amravati	673	1402
8.	Nagpur	1650	2256

. It is further stated that in order to reduce the overcrowding of prisoners, 29 barracks

are completed in Byculla, Aurangabad, Nanded, Beed and Yavatmal prisons. Due to this, the capacity of the prisons has been increased by 735. It is further stated that the barracks which are earlier used for the purpose of jail industries are now used for the purpose of keeping the prisoners. On account of this, the capacity of the prisons has increased by 980. Thus, the total capacity of the prisons in Maharashtra, which was 16216, was increased to 17931.

5. It is further stated that at present the construction of barracks is going on at the Central Prison at Nagpur and District Prisons at Vardha, Bhandara and Chandrapur. The work of constructing new jails at Taloja (Navi Mumbai), Jalna, Latur, Gadchiroli and Washim is underway and after completion of construction work in these jails, 3700 prisoners can be lodged. Moreover, the proposal of constructing new jails at Sindhudurg, Palghar, Gondia and Nandurbar is under consideration. This will increase the capacity by

1200 prisoners. It is stated that on account of taking all these steps, the problems of over crowding of prisoners would be tremendously reduced.

6. As per the norms, one toilet is required for six prisoners. It is stated in the affidavit of Mr.Sable that on account of jails being overcrowded, it is not possible to adhere to the said norms. With regard to the contention about inadequate toilets, it is stated that the Government has decided to construct 1200 toilets during the year 2005-2006 and accordingly construction of 665 toilets has been completed till December, 2005.

. The learned APP has stated that after December, 2005 also a large number of toilets have been constructed and the situation as far as the toilet facilities are concerned, is considerably improved.

7. It is further stated that, in order to reduce over crowding of prisoners in the jail, the Government has decided to transfer prisoners from over crowded prisons to under utilised prisons. Accordingly, 722 prisoners were transferred from the over crowded prisons to other prisons. The Government is also making efforts to reduce the over crowding in prisons by taking various measures e.g. prisoners who are involved in petty cases are immediately produced before the Courts so that the petty cases can be disposed of at the earliest. For that purpose Courts have been established in the prison premises itself.

8. As regards the medical facility available to prisoners in the jails, the main jail in Maharashtra is Yerwada Central Prison, Pune. In Yerwada Central Prison, Pune, there is one Chief Medical Officer, three Medical Officers, one Psychiatrist, one Psychologist alongwith three compounders and six nursing orderly to look after the ill-health of the prisoners. The prisoners

who are suffering from health problem are being treated by Medical Officers in the prison and those who are required to be treated in Hospital, are taken to Sasoon Hospital at Pune and are treated there.

9. In all the central prisons, Medical Officers, compounders, nursing orderly and psychologists are available. In the smaller prisons where there is no permanent Medical Officer attached to the prison for all 24 hours, provision has been made for a Medical Officer to visit the prison. Where there are no Medical Officers available all around the clock in the prisons, the prisoners are referred to the Civil Hospital of the concerned District.

10. As far as Yerwada Central Prison, Pune is concerned, it has a jail hospital. However, as far as the prisons in Mumbai are concerned, a prison hospital is set-up in one of the wards of

J.J.Hospital, Mumbai w.e.f. 1.12.1997. All prisoners in Mumbai requiring hospitalisation are sent to J.J.Hospital.

11. Whenever, a prisoner cannot be treated in the jail hospital, the Government has made provision for hospitalisation of the convicts in a nearby hospital. Moreover all prisoners suffering from ill-health, provision has been made for their treatment and medicines are provided to the prisoners at Government cost. All medicines prescribed to the prisoners are made available to them and if not available the medicines are purchased from local market at Government costs and provided to the prisoners. Medical diet as required is also provided to the needy prisoners.

12. As per the advise of the Medical Officer (Prison), the prisoners are referred to the Government Medical Hospital for further medical treatment, test, surgery etc., as required. Medical camps are also being organised for the

benefit of the prisoners.

13. With a view to make available timely medical aid to prisoners and to facilitate transportation of the prisoners from the prison to the hospital, it is stated that the Government of Maharashtra has purchased 19 ambulances. The newly acquired ambulances have been allotted to the concerned prisons on the basis of prison population. Two ambulances have been allotted to Yerwada Central Prison and one ambulance each has been allotted to the prisons at Kolhapur, Solapur, Sangli, Ahmednagar(Visapur), Paithan, Nashik Road, Jalgaon, Dhule, Aurangabad, Osmanabad, Amaravati, Chandrapur, Nagpur, Wardha, Thane and Byculla Women Prison.

14. As far as the attendants to ailing prisoners is concerned training is being given to the nursing orderly in the prison department and the Government is making efforts to make available attendants to the needy convicts as and when the

need arises.

15. For the mental well being and physical well being of the prisoners, various programmes are conducted in the jail like meditation, Yoga, vipasaana and musical concerts. These programmes are undertaken to bring reform in the life of prisoners. For the purposes of rehabilitation, industrial training is provided to the prisoners like tailoring, leather work, paper work, weaving, carpentry, smith work, bakery, laundry etc. as per Chapter XXII of the Maharashtra Prison Manual.

16. As far as the contention regarding release of convicts, who are old, aged and who are facing serious health problems, it is stated that the Government of Maharashtra has issued directions vide Government Resolutions dated 31.12.1999 and 21.3.2005, to release on certain conditions all the prisoners who are above 65 years of age and who are also infirm. Government Resolution dated 21.3.2005 deals with the women prisoners who are

above 60 years of age.

. In the affidavit of Mr.Sable, it is stated that there were 48 men prisoners in the prisons in Maharashtra, who were over 65 years of age. Out of them 23 were in Yerwada Central Prison, Pune. As far as women prisoners are concerned, there were 06 women prisoners who are 60 years of age. This figure is as of 31st December, 2005.

. It is stated that as per the circular dated 31.12.1999, from Maharashtra, 100 prisoners from various prisons were prematurely released and in-addition thereto 05 women prisoners were also released till 31st December, 2005.

17. There is provision under Section 27 of the Maharashtra Prisons (Review of Sentences) Rules, 1972, to consider premature release of the prisoners who are not of good health; and on medical grounds. It is stated that directions

have been given to the Superintendents of all the prisons in Maharashtra by the Inspector General of Prisons to submit the proposal of eligible convicts under this Rule. The case of various prisoners have been referred and many of them have been released from the prisons. In fact, since 2002 till 31st December, 2005, 97 prisoners were released by the State Government. Out of the 44 convicts mentioned in the Petition, the case of eligible prisoners for release would be considered on merits as per Section 27 of the Maharashtra Prisons (Review of Sentences) Rules, 1972.

18. Thus, it is seen that there is a provision to consider the premature release of prisoners on medical grounds, i.e., Section 27 of the Maharashtra Prisons (Review of Sentences) Rules, 1972. Moreover, the circulars issued by the Government dated 31.12.1999 and 21.3.2005, take care of men and women prisoners who are above 65 & 60 years of age respectively and who are suffering from ill-health.

19. A review committee has also been formed to look into the matter of premature release, specially keeping in mind the age factor and various other factors, including whether the convict is an anti-social person; and conduct of the prisoner in jail. This Committee looks into the case of all the prisoners and thereafter recommend whether a particular prisoner should be prematurely released.

20. In view of the above facts brought to our notice in respect of premature release of old, infirm and sick prisoners who are sentenced to life imprisonment, we are of the opinion that the Government has laid down adequate guidelines and taken measures in respect of this issue, hence no further guidelines are necessary. So far as overcrowding of prisons and providing of adequate toilet and medical facilities to prisoners is concerned, we find that the Government is taking adequate measures in that regard.

21. Thus, looking to the facts stated in the affidavit of Mr.Sable and looking to the steps being taken by the Government, at present we do not think it necessary to issue any further directions.

22. Petition is disposed of.

(D.G.DESHPANDE, J.)

(SMT.V.K.TAHILRAMANI,J.)